

PY 00859

Before the  
Administrative Hearing Commission  
State of Missouri . .



STATE COMMITTEE OF PSYCHOLOGISTS, )

Petitioner, )

vs. )

No. 04-0469 PS

BRUCE ALLEN DAVIS, )

Respondent. )

**CONSENT ORDER**

The licensing authority filed a complaint. Section 621.045, RSMo 2000, gives us jurisdiction.

On April 19, 2004, the parties filed a "Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee of Psychologists, and Joint Disciplinary Order With Joint Stipulated Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under § 337.035.2(2), RSMo 2000. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order. We certify the record to the licensing agency under § 621.110, RSMo 2000.

The only issue before this Commission is whether the stipulated conduct constitutes cause to discipline the license. The appropriate disciplinary action is not within our power to decide; that is subject to the licensing authority's decision or the parties' agreement. Section 621.110, RSMo 2000.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3. RSMo 2000. We have no power to superintend agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W. 2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied with such procedures.

SO ORDERED on April 21, 2004.

  
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JOHN J. KOPP  
Commissioner

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**

APR 19 2004

ADMINISTRATIVE HEARING  
COMMISSION

STATE COMMITTEE OF PSYCHOLOGISTS, )

Petitioner, )

v. )

BRUCE ALLEN DAVIS, )

Respondent. )

No. 04-0469 PS

JOINT MOTION FOR CONSENT ORDER, JOINT STIPULATION OF FACTS,  
WAIVER OF HEARINGS BEFORE THE ADMINISTRATIVE HEARING  
COMMISSION AND STATE COMMITTEE OF PSYCHOLOGISTS,  
AND JOINT DISCIPLINARY ORDER WITH JOINT STIPULATED  
FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission ("AHC"), 1 CSR 15-3.440(3)(C), and pursuant to the terms of § 536.060, RSMo, as it is made applicable to the AHC by § 621.135, RSMo, the parties waive the right to a hearing and decision in the above-captioned case by the AHC. In addition, the parties waive the right to a disciplinary hearing before the State Committee of Psychologists ("Committee") pursuant to § 621.110, RSMo. The parties jointly stipulate and agree that a final disposition of this matter may be effectuated as described below.

Respondent acknowledges that he is aware of and understands the various rights and privileges afforded to him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing

at the hearing against him; the right to present evidence on his behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against him; the right to a ruling on questions of law by the AHC; the right to a disciplinary hearing before the Committee at which time he may present evidence in mitigation of discipline; the right to a claim for attorney's fees and expenses; and the right to obtain judicial review of the decisions of the AHC and the Committee. Being aware of these rights provided him by operation of law, Respondent knowingly and voluntarily waives each and every one of these rights as they apply to him, freely enters into this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and the State Committee of Psychologists, and Joint Disciplinary Order with Joint Stipulated Findings of Fact and Conclusions of Law ("Joint Stipulation") and agrees to abide by the terms of this document as they pertain to him.

Respondent acknowledges that he has received a copy of the Complaint in this cause which was filed with the AHC. Respondent stipulates that the factual allegations contained in this Joint Stipulation are true and stipulates with the Committee that his license, No. PY00859 [REDACTED], is subject to disciplinary action by the Committee in accordance with the provisions of Chapter 621, RSMo, and § 337.035, RSMo.

Based upon the foregoing, the Committee and Respondent jointly stipulate to the following findings of fact and conclusions of law in lieu of the facts as alleged in the Complaint and request that the AHC adopt as its own the Joint Stipulated Findings of Fact and the Joint Stipulated Conclusions of Law set forth below.

## JOINT PROPOSED FINDINGS OF FACT

1. Petitioner, the State Committee of Psychologists ("the Committee"), is an agency of the state of Missouri created and established by § 337.050, RSMo 2000, for the purpose of administering and enforcing the provisions of Chapter 337, RSMo, relating to psychologists.

2. Respondent, Bruce Allen Davis ("Davis"), was licensed by the Committee as a psychologist, license No. PY00859.

3. Davis' license to practice as a psychologist in Missouri was current and active at all times relevant herein, until its expiration on January 31, 2004.

4. On or about February 24, 2003, in the Circuit Court of Christian County, Missouri, Davis entered a plea of guilty to misdemeanor possession of child pornography, case no. CR 302-968M.

5. Possession of child pornography is a crime of moral turpitude.

6. The Committee acknowledges and agrees that, at this time, other than Davis' conviction as referenced herein, it has no evidence of any other wrongdoing by Davis.

## JOINT PROPOSED CONCLUSIONS OF LAW

7. Cause exists to discipline Davis' license to practice psychology pursuant to § 337.035, RSMo 2000, which states in relevant part:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution under the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of any profession licensed or regulated under this chapter, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

#### JOINT DISCIPLINARY ORDER

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Committee in this matter under the authority of § 621.110, RSMo 2000. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Administrative Hearing Commission without further action by either party:

1. Respondent's license to practice as a psychologist, numbered PY00859, is hereby REVOKED. Respondent shall within ten days of the effective date of this Joint Stipulation return all evidence of Missouri licensure including, but not limited to, all copies and originals of Respondent's psychologist license, wall hanging, and wallet certificate to the State Committee of Psychologists.

2. This Joint Stipulation is not and shall not be construed as an admission by Respondent of any wrongdoing or liability, civil or criminal, other than specifically set forth in the Joint Proposed Findings of Facts herein. This Joint Stipulation and any statements contained herein may not be used for or constitute an admission for any purposes other than to resolve the disputes between the parties.

3. The parties to this Joint Stipulation understand that the Committee will maintain this Joint Stipulation as an open and public record of the Committee as provided in Chapters 337, 610, and 620, RSMo.

4. The terms of this Joint Stipulation are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

5. Respondent hereby waives and releases the Committee, its members and any of its employees, agents, or attorneys, including any former committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law or administrative tribunal deems this Joint Stipulation or any portion thereof void or unenforceable.

In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee of Psychologists, and Joint Disciplinary Order with Joint Stipulated Findings of Fact and Conclusions of Law and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by the Petitioner in the above-styled action.

RESPONDENT

Bruce Allen Davis  
Bruce Allen Davis

Date 3/10/04

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